



Billing Code: 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120404257-3325-02]

RIN 0648-BB58

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;  
Snapper-Grouper Fishery off the Southern Atlantic States;  
Amendment 18B

AGENCY: National Marine Fisheries Service (NMFS), National  
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement management measures described in Amendment 18B to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region (Amendment 18B), as prepared by the South Atlantic Fishery Management Council (Council). This final rule: establishes a longline endorsement program for the commercial golden tilefish component of the snapper-grouper fishery; establishes initial eligibility requirements for a golden tilefish longline endorsement; establishes an appeals process; allocates the commercial golden tilefish annual catch limit (ACL) among gear groups; establishes a procedure for the transfer of golden tilefish endorsements; and modifies the

golden tilefish trip limits; and establishes a trip limit for commercial fishermen who do not receive a golden tilefish longline endorsement. The intent of this rule is to reduce overcapacity in the commercial golden tilefish component of the snapper-grouper fishery.

DATES: This rule is effective [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Electronic copies of Amendment 18B may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov/sf/SASnapperGrouperHomepage.htm>.

Amendment 18B includes an environmental assessment, a final regulatory flexibility analysis (FRFA), and a Fishery Impact Statement.

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted in writing to Anik Clemens, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; and Office of Management and Budget (OMB), by e-mail at [OIRA.Submission@omb.eop.gov](mailto:OIRA.Submission@omb.eop.gov), or by fax to 202-395-7285.

FOR FURTHER INFORMATION CONTACT: Karla Gore, Southeast Regional Office, NMFS, telephone: 727-824-5305; email: [Karla.Gore@noaa.gov](mailto:Karla.Gore@noaa.gov).

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery off the southern Atlantic states includes golden tilefish and is managed under the FMP for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On October 26, 2012, NMFS published a notice of availability for Amendment 18B and requested comments (77 FR 65356). On December 19, 2012, NMFS published a proposed rule for Amendment 18B and requested public comments (77 FR 75093). The proposed rule and Amendment 18B outline the rationale for the actions contained in this final rule. Amendment 18B was approved by the Secretary of Commerce on January 25, 2013. A summary of the actions implemented by this final rule are provided below.

This final rule: establishes a longline endorsement program for the commercial golden tilefish component of the snapper-grouper fishery; establishes initial eligibility requirements for a golden tilefish longline endorsement; establishes an appeals process; allocates the commercial golden tilefish ACL among gear groups; establishes a procedure for the transfer of golden tilefish endorsements; modifies the golden tilefish trip limits; and establishes a trip limit for

commercial fishermen who do not receive a golden tilefish longline endorsement. This final rule also contains two administrative changes unrelated to Amendment 18B. Through this final rule, NMFS amends 50 CFR 622.194, paragraph (a), to include maximum sustainable yield proxy, optimum yield, a quota of zero, annual catch targets, maximum fishing mortality threshold, minimum stock size threshold, size limits, fishing year, and rebuilding plans to the list of items that can be established or modified in accordance with the framework procedure for the FMP. Additionally, NMFS revises the phrase "Federal charter vessel/headboat permit" to read "Federal commercial or charter vessel/headboat permit" in several paragraphs in 50 CFR 622.193 and 622.280.

#### Comments and Responses

NMFS received a total of 16 comments on Amendment 18B and the proposed rule, which include comments from private citizens, recreational fishermen, commercial fishermen, and fishing associations. One comment expressed support for the amendment and two comments were unrelated to the actions in Amendment 18B. The specific comments related to the actions contained in Amendment 18B and the proposed rule and NMFS' respective responses, are summarized below.

Comment 1: The golden tilefish recreational sector allocation (3 percent) is unfair and should be increased.

Response: The golden tilefish recreational sector allocation of 3 percent was established in Amendment 17B to the FMP (75 FR 82280, December 30, 2012), and changing that allocation is outside the scope of Amendment 18B. Amendment 18B does divide the commercial sector ACL between the longline (75 percent) and hook-and-line (25 percent) gear groups.

Comment 2: A sunset clause for the 25 percent allocation to the hook-and-line component of the commercial sector should be established if that component cannot harvest golden tilefish at that allocated level.

Response: The Council did not choose a sunset clause for the hook-and-line allocation in Amendment 18B, and NMFS may not add such a requirement. If the hook-and-line component is unable to harvest their portion of the ACL allotted through Amendment 18B, the Council may consider changing that allocation in a future amendment to the FMP.

Comment 3: The ACL allocation should be divided equally for the longline and hook-and-line components of the commercial sector.

Response: NMFS disagrees. Amendment 18B allocates 25 percent of the commercial ACL to the hook-and-line component and 75 percent to the longline component, which currently equates to 135,324 lb (61,382 kg), gutted weight, for the hook-and-line component and 405,971 lb (184,145 kg), gutted weight, for the

longline component. The Council examined past and present landings when considering options for gear allocations, and determined that allocating 25 percent of the ACL to the hook-and-line component, and 75 percent to the longline component was appropriate. The hook-and-line component caught 25 percent of the total commercial golden tilefish landings during 2001-2005. Since 2005, the proportion of the golden tilefish landings taken by the hook-and-line component has progressively decreased due to a reduced golden tilefish quota that was implemented in 2006, which has been met earlier each year. As a result, hook-and-line fishermen, who typically do not fish until the fall, have been increasingly unable to participate in the golden tilefish component of the snapper-grouper fishery because the ACL was being caught quickly each fishing season by the longline component. NMFS agrees that allocating 25 percent of the commercial ACL to the hook-and-line component and 75 percent to the longline component would restore access to the resource by hook-and-line fishermen to proportions observed prior to 2006, and during periods when they have historically harvested golden tilefish (late summer to early fall). If the hook-and-line component regularly reaches its ACL allocation cap in the future, the Council may consider increasing the allocation in a future amendment to the FMP.

Comment 4: The establishment of an endorsement program grants private rights to a public resource.

Response: An endorsement does not grant a private right to a public resource. An endorsement is a type of permit that may be transferred, revoked, suspended, denied, conditioned, or restricted in accordance with the Magnuson-Stevens Act. Anyone with a commercial Snapper-Grouper Unlimited or 225-lb Trip-Limited Permit who did not receive an endorsement would still be able to harvest commercial quantities of golden tilefish using hook-and-line gear under the 500-lb (227-kg), gutted weight, trip limit. However, those with the 225-lb Trip-Limited Permit are limited to 225 lb (102 kg).

#### Changes from the Proposed Rule

On April 17, 2013, NMFS published in the Federal Register an interim final rule to reorganize the regulations in 50 CFR part 622 for the Gulf of Mexico, South Atlantic, and the Caribbean (78 FR 22950). That interim final rule did not create any new rights or obligations; it reorganized the existing regulatory requirements in the Code of Federal Regulations into a new format. This final rule incorporates this new format into the regulatory text; it does not change the specific regulatory requirements that were contained in the proposed rule. Therefore, as a result of this reorganization, the permit text previously located at § 622.4(a)(2)(vi) is now at §

622.170(a)(1), the golden tilefish endorsement text previously located at § 622.4(a)(2)(xvi) is now at § 622.170(f), the species limitations text previously located at § 622.41(d)(6) is now at § 622.188(g), the species limitations text previously located at § 622.41(d)(6) is now at § 622.188(g), the quota text previously located at § 622.42(e)(2) is now at § 622.191(a)(2), the AMs text previously at § 622.48(f) is now at § 622.194(a), and the edits to the phrase "Federal charter vessel/headboat permit" previously found in § 622.49 are now at §§ 622.193 and 622.280. The transfer text previously located at § 622.4(g)(1) is longer needed because it is covered in § 622.4(f).

#### Classification

The Regional Administrator, Southeast Region, NMFS, has determined that the actions contained in this final rule are necessary for the conservation and management of the snapper-grouper fishery in the South Atlantic and are consistent with Amendment 18B, the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

A FRFA was prepared for this action. The FRFA incorporates the IRFA, a summary of the significant economic issues raised by public comments, NMFS' responses to those comments, and a



summary of the analyses completed to support the action. The FRFA follows.

No public comments specific to the IRFA were received and, therefore, no public comments are addressed in this FRFA. However, several comments with socioeconomic implications were received and are addressed in the Comments and Responses section (Comments 1 and 3). No changes in the final rule were made in response to public comments.

NMFS agrees that the Council's choice of preferred alternatives would best achieve the Council's objectives while minimizing, to the extent practicable, the adverse effects on fishers, support industries, and associated communities. The preamble to this final rule provides a statement and need for, and objectives of, this rule and it is not repeated here.

The Magnuson-Stevens Act provides the statutory basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified.

The only new reporting, record-keeping, or other compliance requirements that this final rule will introduce pertain to the requirement to have a commercial golden tilefish longline endorsement to fish for golden tilefish in the South Atlantic exclusive economic zone (EEZ) using longline gear or possess golden tilefish on a vessel in the South Atlantic EEZ with longline gear aboard. The initial endorsement will be sent

directly to those qualifying for the endorsement. Renewals and transfers of endorsements are subject to the same fees as permits. Because the endorsement would be received through completion of the normal permitting process, no special professional skills would be required to satisfy this new compliance requirement. In the case of appeals, the appellants are required to submit logbook information as supporting documentation. Submission of logbook information does not require special professional skill.

NMFS expects this final rule to directly affect commercial fishermen in the South Atlantic snapper-grouper fishery. The Small Business Administration established size criteria for all major industry sectors in the U.S. including fish harvesters. A business involved in fish harvesting is classified as a small business if independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of \$4.0 million (NAICS code 114111, finfish fishing) for all of its affiliated operations worldwide.

During 2005-2011, a total of 142 hook-and-line vessels with valid permits to operate in the commercial snapper-grouper fishery landed golden tilefish. These vessels generated annual average dockside revenues of approximately \$69,000 (2010 dollars) from golden tilefish, or \$603,000 (2010 dollars) from

all species, inclusive of golden tilefish, caught in the same trips as golden tilefish. On average, each of these vessels generated about \$4,246 (2010 dollars) in gross revenues from all species caught only in trips in which golden tilefish was caught. During the same period, a total of 43 longline vessels with valid permits to operate in the commercial snapper-grouper fishery landed golden tilefish. Their annual average revenues were about \$835,000 (2010 dollars) from golden tilefish, or \$1,218,000 (2010 dollars) from all species, inclusive of golden tilefish, caught in the same trips as golden tilefish. Each of these vessels, therefore, generated an average of approximately \$28,330 (2010 dollars) in gross revenues from all species caught only in trips in which golden tilefish was caught.

Based on revenue information, all commercial vessels affected by the rule can be considered small entities.

NMFS expects the final rule to directly affect all federally-permitted commercial vessels harvesting golden tilefish in the South Atlantic EEZ. All directly affected entities have been determined, for the purpose of this analysis, to be small entities. Therefore, NMFS determines that this final rule will affect a substantial number of small entities.

NMFS considers all entities expected to be affected by the rule as small entities, so the issue of disproportional effects

on small versus large entities does not arise in the present case.

Establishing a longline endorsement system will limit the expansion of capital and effort in the longline component of the commercial sector for golden tilefish. Because this component is by far the dominant component in the commercial harvest of golden tilefish, an endorsement system could extend the commercial fishing season, thereby providing the industry opportunities to remain profitable. However, unlike the case with a management system that assigns harvesting privileges to specific fishermen, an endorsement system will not eliminate the underlying incentive to "race to fish." With this incentive remaining intact, effort and capital stuffing (increasing vessel capacity, speed or fishing accessories) will continue to increase over time and eventually shorten the fishing season.

Under the selected criteria for a longline endorsement, 24 vessels that used longline gear during 2006-2011 will qualify for a longline endorsement; 19 vessels that used longline gear during the same time period will not qualify for an endorsement. Qualifying vessels generated total revenues of about \$788,000 (2010 dollars) annually from golden tilefish while non-qualifying vessels generated a total of about \$47,000 (2010 dollars) in annual revenues from golden tilefish. The decrease in revenues to non-qualifying vessels from not receiving an

endorsement would be about 17 percent of their total revenues. Non-qualifying vessels could switch gear and recoup part of their losses; nonetheless, their short-term profits will still likely suffer. However, relative to the total profits of commercial vessels in the snapper-grouper fishery, revenue and profit reductions to non-qualifying vessels will not be significant. In terms of revenues, a loss of \$47,000 (2010 dollars) will be about 3 percent of total revenues by vessels landing golden tilefish and less than 1 percent of total revenues by all commercial vessels in the South Atlantic. Moreover, revenue and profit losses to non-qualifying vessels will likely be gained by qualifying vessels. Considering the fishing season closures in recent years, qualifying vessels will most likely harvest the golden tilefish forgone by non-qualifying vessels. This will increase the revenues and possibly the profits of qualifying vessels, and will decrease the profits of non-qualifying vessels. Whether this will increase overall industry profits cannot be ascertained based on available information. It is possible that short-term industry profits will increase or at least not dissipate quickly. With fewer participants in the longline component, and noting that the longline component is by far the dominant component in the commercial harvest of golden tilefish, the fishing season for the longline component could lengthen and thereby allow

qualifying vessels to command better prices for golden tilefish. These effects, however, will be transitory. The incentive to "race to fish" is still intact so that effort from qualifying vessels could increase in the medium- and long-term, eventually erasing any profit gains from establishing the endorsement.

Establishing an appeals process for fishermen initially excluded from the golden tilefish longline endorsement will provide opportunities for those legitimately qualified to receive their endorsement after an initial denial. Given the narrow basis for appeals (e.g., landings reported on NMFS logbook records or state landing records), only a limited number of appeals will likely be successful.

Establishing a 75-percent longline and 25-percent hook-and-line allocation of the golden tilefish commercial ACL will ensure the continued presence of the hook-and-line component in the commercial harvest of golden tilefish. Relative to the baseline (2005-2011 average landings), this allocation ratio will redistribute the harvest of golden tilefish from the longline component to the hook-and-line component. This, in theory, will result in negative effects on the longline component and positive effects on the hook-and-line component. However, because the commercial quota (commercial ACL) is increased well above the baseline landings of both components, this allocation ratio will yield positive revenue effects to

both components. Revenue gains are expected to total \$302,000 (2010 dollars) to the entire hook-and-line component and \$271,000 (2010 dollars) to the entire longline component, or total revenue effects of about \$573,000 (2010 dollars) for the whole commercial sector. NMFS expects that these positive revenue effects will translate to positive profit effects on both components because many vessel trips will be able to retain golden tilefish.

Allowing the transfer of golden tilefish longline endorsements between individuals or entities with South Atlantic Unlimited Snapper-Grouper Permits will open opportunities for increasing the value of the endorsement asset and for the more efficient operators to engage in the fishery. Such opportunities, however, will still be limited by the requirement that transfers of endorsements be made between individuals/entities possessing South Atlantic Snapper-Grouper Unlimited Permits. These snapper-grouper commercial permits are under a limited entry program.

Eliminating the 300-lb (136-kg), gutted weight, commercial trip limit when 75 percent of the commercial ACL is taken will benefit longline vessels. This decrease of the trip limit was intended to preserve the presence of the hook-and-line component, but is now unnecessary because the hook-and-line component has a separate allocation. Thus, this alternative

will allow the longline component, whose trips will likely be unprofitable under a trip limit of 300 lb (136 kg), gutted weight, to efficiently use its capacity and maximize its revenues and likely profits as well.

Establishing a 500-lb (223-kg), gutted weight, trip limit for commercial fishermen who will not receive a longline endorsement will affect 14 out of 249 trips based on average 2005-2011 data. This trip limit will reduce per trip landings, and it is also expected to reduce total landings for those not receiving an endorsement, at least in its first year of implementation. Total landings will be reduced by about 24,000 lb (10,886 kg), gutted weight, worth \$69,000 (2010 dollars). The effects of a trip limit are generally temporary; vessels incurring revenue reductions due to a trip limit could recoup their losses by taking more trips so long as those trips remain profitable. Considering the relatively few trips that will be affected, this trip limit will likely not be too constraining as to reduce the sector's overall profits.

The following discussion analyzes the alternatives that were not chosen by the Council.

Two alternatives, including the preferred alternative that would establish an endorsement system, were considered for limiting participation in the golden tilefish component of the snapper-grouper fishery through an endorsement system. The no



action alternative would not limit effort in the commercial harvest of golden tilefish and thus would not address the evolving derby (race to fish) in the commercial sector.

Two alternatives were considered for establishing eligibility requirements for the longline endorsement. The first alternative, the no action alternative, would make the endorsement system ineffective in addressing increasing effort in the commercial sector because everyone with a valid commercial snapper-grouper permit could receive an endorsement. The second alternative consists of 9 sub-alternatives, including the preferred sub-alternative, with each providing for an endorsement eligibility based on a minimum amount of golden tilefish landings using longline gear during a given period. The first sub-alternative would require a minimum of 2,000 lb (907 kg), gutted weight, total longline landings during 2006-2008. The second sub-alternative would require a minimum of 5,000 lb (2,268 kg), gutted weight, total longline landings during 2006-2008. The third sub-alternative would require a minimum of 5,000 lb (2,268 kg), gutted weight, average longline landings during 2006-2008. The fourth sub-alternative would require a minimum of 5,000 lb (2,268 kg), gutted weight, average longline landings during 2007-2009. The fifth sub-alternative would require a minimum of 10,000 lb (4,536 kg), gutted weight, average longline landings during 2007-2009. The sixth sub-

alternative would require a minimum of 5,000 lb (2,268 kg), gutted weight, average longline landings for the best 3 years during 2006-2010. The seventh sub-alternative would require a minimum of 5,000 lb (2,268 kg), gutted weight, average longline landings for the best 3 years during 2006-2011. The eighth sub-alternative would require a minimum of 10,000 lb (4,536 kg), gutted weight, average longline landings for the best 3 years during 2006-2011. Each of these sub-alternatives would qualify fewer entities for the endorsement and thus would result in greater forgone revenues than the preferred sub-alternative.

Three alternatives, including the preferred alternative, were considered for establishing an appeals process for fishermen initially excluded from the endorsement program. The first alternative, the no action alternative, would not establish an appeals process. This alternative has the potential to unduly penalize participants, mainly due to errors in data reporting or recording. The second alternative is the same as the preferred alternative, except it would additionally establish a special board composed of state directors/designees that would review, evaluate, and make individual recommendations to the RA. This alternative would introduce an additional administrative burden that may not improve the appeals process considering that the only major issue subject to appeals is the landings record.

Four alternatives, including the preferred alternative, were considered for allocating the commercial golden tilefish ACL among gear groups. The first alternative, the no action alternative, would not specify an allocation among gear groups. With this alternative, the already diminished share of the hook-and-line component in the harvest of golden tilefish could further decline. Consequently, further reductions in that component's revenues and profits could occur, negating the Council's intent to minimize negative economic impacts on this component. The second alternative would establish an 85 percent longline and 15 percent hook-and-line allocation, and the third alternative would establish a 90 percent longline and 10 percent hook-and-line allocation. These two other alternatives would favor the longline component, but would allow the hook-and-line component to continue its operations. Similar to the preferred alternative, the effects of these alternatives on overall industry profits cannot be determined based on available information.

Two alternatives, including the preferred alternative, were considered for allowing transferability of longline endorsements. The first alternative, the no action alternative, would not allow transfers of endorsements. This alternative would limit the value of the endorsement asset and hinder the participation of potentially more efficient operators. The

second alternative (preferred) includes two sub-alternatives, of which one is the preferred sub-alternative that would allow transfers of endorsements upon implementation of the program. The other sub-alternative would not allow transfers of endorsements during the first 2 years of the program. This sub-alternative would mainly delay the entrance of more efficient operators and the generation of higher-valued endorsement assets.

Three alternatives, including the preferred alternative, were considered for modifying the golden tilefish trip limit. The first alternative, the no action alternative, would retain the 4,000-lb (1,814-kg), gutted weight, trip limit that would be reduced to 300 lb (136 kg), gutted weight, if 75 percent of the commercial ACL is reached by September 1. The trip limit reduction to 300 lb (136 kg), gutted weight, which was partly established to preserve the presence of the hook-and-line component, is no longer necessary with the establishment of a separate allocation for each gear group. The second alternative would prohibit longline fishing for golden tilefish when 75 percent of the commercial ACL is reached. This alternative is not necessary because of the establishment of a separate allocation for each gear group. In addition, this would constrain the profits longline vessels could derive from the harvest of golden tilefish.

Six alternatives, including the preferred alternative, were considered for establishing a trip limit for commercial fishermen who do not receive a longline endorsement. The first alternative, the no action alternative, would retain the 4,000-lb (1,814-kg), gutted weight, trip limit that would be reduced to 300 lb (136 kg), gutted weight, when 75 percent of the commercial ACL is reached. The second alternative would establish a 300-lb (136-kg), gutted weight, trip limit; the third alternative, a 400-lb (181-kg), gutted weight, trip limit; the fourth, a 100-lb (45-kg), gutted weight, trip limit; and, the fifth alternative, a 200-lb (91-kg), gutted weight, trip limit. Relative to the preferred alternative, all these other trip limits would be more restrictive and thus would likely result in larger reductions in vessel revenues and profits per trip.

In addition to the actions considered in Amendment 18B included in this final rule, this final rule makes changes to the regulatory text in 50 CFR parts 622.194, 622.193, and 622.280. These changes are described in the preamble of this final rule. These changes are either clerical or simply clarify language associated with a prior regulatory action. As a result, none of these changes in the regulatory text would be expected to result in any reduction in profits to any small entities.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as small entity compliance guides. As part of the rulemaking process, NMFS prepared a fishery bulletin, which also serves as a small entity compliance guide. The fishery bulletin will be sent to all vessel permit holders in the South Atlantic snapper-grouper fishery.

This final rule contains collection-of-information requirements subject to the requirements of the Paperwork Reduction Act (PRA), which have been approved by OMB under control numbers 0648-0205 and 0648-0603. NMFS estimates the requirement for South Atlantic Unlimited Snapper-Grouper Permit holders to submit their logbook information if they are appealing their landings data for a golden tilefish longline endorsement to average 2 hours per response. NMFS estimates the requirement to check boxes on the Federal Permit Application Form for a new endorsement, renewal, or transfer of the golden tilefish endorsement to average 1 minute per response. These estimates of the public reporting burden include the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection-of-

information. Send comments regarding the burden estimate or any other aspect of the collection-of-information requirement, including suggestions for reducing the burden, to NMFS and to OMB (see ADDRESSES).

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless that collection-of-information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 622

Commercial sector, Fisheries, Fishing, Golden tilefish, Snapper-grouper Fishery, South Atlantic, Reporting and recordkeeping requirements.

Dated: April 17, 2013

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Alan D. Risenhoover,  
Director, Office of Sustainable Fisheries,  
performing the functions and duties of the  
Deputy Assistant Administrator for Regulatory Programs,  
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 622.170, paragraph (a)(1) is revised and paragraph (f) is added to read as follows:

§ 622.170 Permits and endorsements.

(a) \* \* \*

(1) South Atlantic snapper-grouper. For a person aboard a vessel to be eligible for exemption from the bag limits for South Atlantic snapper-grouper in or from the South Atlantic EEZ, to sell South Atlantic snapper-grouper in or from the South Atlantic EEZ, to engage in the directed fishery for golden tilefish in the South Atlantic EEZ, to use a longline to fish for South Atlantic snapper-grouper in the South Atlantic EEZ, or to use a sea bass pot in the South Atlantic EEZ between 35°15.19' N. lat. (due east of Cape Hatteras Light, NC) and 28°35.1' N. lat. (due east of the NASA Vehicle Assembly Building, Cape Canaveral, FL), either a commercial vessel permit for South Atlantic Unlimited Snapper-Grouper Permit or a trip-limited permit for South Atlantic snapper-grouper must have been issued to the vessel and must be on board. A vessel with a



trip-limited commercial permit is limited on any trip to 225 lb (102.1 kg) of snapper-grouper. See § 622.171 for limitations on the use, transfer, and renewal of a commercial vessel permit for South Atlantic snapper-grouper.

\* \* \* \* \*

(f) South Atlantic golden tilefish longline endorsement.

For a person aboard a vessel, for which a valid commercial vessel permit for South Atlantic snapper-grouper unlimited has been issued, to fish for or possess golden tilefish in the South Atlantic EEZ using longline gear, a South Atlantic golden tilefish longline endorsement must have been issued to the vessel and must be on board. A permit or endorsement that has expired is not valid. This endorsement must be renewed annually and may only be renewed if the associated vessel has a valid commercial vessel permit for South Atlantic snapper-grouper unlimited or if the endorsement and associated permit are being concurrently renewed. The RA will not reissue this endorsement if the endorsement is revoked or if the RA does not receive a complete application for renewal of the endorsement within 1 year after the endorsement's expiration date.

(1) Initial eligibility. To be eligible for an initial South Atlantic golden tilefish longline endorsement, a person must have been issued and must possess a valid or renewable commercial vessel permit for South Atlantic snapper-grouper that

has golden tilefish landings using longline gear averaging at least 5,000 lb (2,268 kg), gutted weight, over the best 3 years within the period 2006 - 2011. NMFS will attribute all applicable golden tilefish landings associated with a current South Atlantic snapper-grouper permit for the applicable landings history, to the current permit owner, including golden tilefish landings reported by a person(s) who held the permit prior to the current permit owner. Only legal landings reported in compliance with applicable state and Federal regulations are acceptable.

(2) Initial issuance. On or about [insert date of publication in the FEDERAL REGISTER], the RA will mail each eligible permittee a golden tilefish longline endorsement via certified mail, return receipt requested, to the permittee's address of record as listed in NMFS' permit files. An eligible permittee who does not receive an endorsement from the RA, must contact the RA no later than [insert date 30 days after date of publication in the FEDERAL REGISTER], to clarify his/her endorsement status. A permittee who is denied an endorsement based on the RA's initial determination of eligibility and who disagrees with that determination may appeal to the RA.

(3) Procedure for appealing golden tilefish longline endorsement eligibility and/or landings information. The only items subject to appeal are initial eligibility for a golden

tilefish longline endorsement based on ownership of a qualifying snapper-grouper permit, the accuracy of the amount of landings, and the correct assignment of landings to the permittee.

Appeals based on hardship factors will not be considered.

Appeals must be submitted to the RA postmarked no later than

[insert date 120 days after publication in the FEDERAL REGISTER], and must contain documentation supporting the basis for the appeal. The National Appeals Office will review, evaluate, and render recommendations on appeals to the RA. The RA will then review each appeal, render a final decision on each appeal, and advise the appellant of the final NMFS decision.

(i) Eligibility appeals. NMFS' records of snapper-grouper permits are the sole basis for determining ownership of such permits. A person who believes he/she meets the permit eligibility criteria based on ownership of a vessel under a different name, for example, as a result of ownership changes from individual to corporate or vice versa, must document his or her continuity of ownership and must submit that information with their appeal.

(ii) Landings appeals. Determinations of appeals regarding landings data for 2006 through 2011 will be based on NMFS' logbook records, submitted on or before October 31, 2012. If NMFS' logbooks are not available, the RA may use state landings records or data for the period 2006 through 2011 that were

submitted in compliance with applicable Federal and state regulations on or before October 31, 2012.

(4) Transferability. A valid or renewable golden tilefish endorsement may be transferred between any two entities that hold, or simultaneously obtain, a valid South Atlantic snapper-grouper unlimited permit. An endorsement may be transferred independently from the South Atlantic snapper-grouper unlimited permit. NMFS will attribute golden tilefish landings to the associated South Atlantic Unlimited Snapper-Grouper Permit regardless of whether the landings occurred before or after the endorsement was issued. Only legal landings reported in compliance with applicable state and Federal regulations are acceptable.

(5) Fees. No fee applies to the initial issuance of a golden tilefish longline endorsement. NMFS charges a fee for each renewal or replacement or transfer of such endorsement and calculates the amount of each fee in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service. The handbook is available from the RA. The appropriate fee must accompany each application for renewal or replacement or transfer.

3. In § 622.188, paragraph (g) is revised to read as follows:

§ 622.188 Required gear, authorized gear, and unauthorized gear.

\* \* \* \* \*

(g) Longline species limitation. A vessel that has on board a valid Federal commercial permit for South Atlantic snapper-grouper, excluding wreckfish, that fishes in the EEZ on a trip with a longline on board, may possess only the following South Atlantic snapper-grouper: snowy grouper, yellowedge grouper, misty grouper, golden tilefish, blueline tilefish, and sand tilefish. See § 622.170(f) for the requirement to possess a valid South Atlantic golden tilefish longline endorsement to fish for golden tilefish in the South Atlantic EEZ using longline gear. For the purpose of this paragraph, a vessel is considered to have a longline on board when a power-operated longline hauler, a cable of diameter suitable for use in the longline fishery on any reel, and gangions are on board. Removal of any one of these three elements constitutes removal of a longline.

4. In § 622.190, paragraph (a)(2) is revised to read as follows:

§ 622.190 Quotas.

\* \* \* \* \*

(a) \* \* \*

(2) Golden tilefish. (i) Longline and hook-and-line components combined--541,295 lb (245,527 kg).

(ii) Hook-and-line component--135,324 lb (61,382 kg).

(iii) Longline component--405,971 lb (184,145 kg).

\* \* \* \* \*

5. In § 622.191, paragraph (a)(2) is revised to read as follows:

§ 622.191 Commercial trip limits.

\* \* \* \* \*

(a) \* \* \*

(2) Golden tilefish--(i) South Atlantic snapper-grouper unlimited permit holders, with a longline endorsement, using longline gear. Until the quota specified in § 622.190(a)(2)(iii) is reached, 4,000 lb (1,814 kg), gutted weight; 4,480 lb (2,032 kg), round weight.

(ii) South Atlantic snapper-grouper unlimited permit holders, without a longline endorsement, using hook-and-line gear. Until the quota specified in § 622.190(a)(2)(ii) is reached, the trip limit for golden tilefish is 500 lb (227 kg), gutted weight; 560 lb (254 kg), round weight. Vessels with golden tilefish longline endorsements are not eligible to fish for golden tilefish using hook-and-line gear under this 500-lb (227-kg) trip limit.

(iii) See § 622.190(c)(1) for the limitations regarding golden tilefish after the applicable commercial quota is reached.

\* \* \* \* \*

6. In § 622.193, paragraph (a)(1) is revised and the last sentence of paragraphs (d)(1)(i), (g)(1)(i), (h)(1)(i), (i)(1)(i), (j)(1)(i), (l)(1)(i), (m)(1)(i), (o)(1)(i), (p)(1)(i), (q)(1)(i), (s)(1)(i), (t)(1)(i), (u)(1)(i), (w)(1)(i), and (x)(1)(i) are revised to read as follows:

§ 622.193 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

(a) \* \* \*

(1) Commercial sector--(i) Hook-and-line component. If commercial landings, as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.190(a)(2)(ii), the AA will file a notification with the Office of the Federal Register to close the hook-and-line component of the commercial sector for the remainder of the fishing year.

(ii) Longline component. If commercial landings, as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.190(a)(2)(iii), the AA will file a notification with the Office of the Federal Register to close the longline component

of the commercial sector for the remainder of the fishing year. After the commercial ACL for the longline component is reached or projected to be reached, golden tilefish may not be fished for or possessed by a vessel with a golden tilefish longline endorsement.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(i) \* \* \* This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

\* \* \* \* \*

(g) \* \* \*

(1) \* \* \*

(i) \* \* \* This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

\* \* \* \* \*

(h) \* \* \*



(1) \* \* \*

(i) \* \* \* This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

\* \* \* \* \*

(i) \* \* \*

(1) \* \* \*

(i) \* \* \* This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

\* \* \* \* \*

(j) \* \* \*

(1) \* \* \*

(i) \* \* \* This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

\* \* \* \* \*

(1) \* \* \*

(1) \* \* \*

(i) \* \* \* This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

\* \* \* \* \*

(m) \* \* \*

(1) \* \* \*

(i) \* \* \* This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

\* \* \* \* \*

(o) \* \* \*

(1) \* \* \*

(i) \* \* \* This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

\* \* \* \* \*

(p) \* \* \*

(1) \* \* \*

(i) \* \* \* This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

\* \* \* \* \*

(q) \* \* \*

(1) \* \* \*

(i) \* \* \* This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

\* \* \* \* \*

(s) \* \* \*

(1) \* \* \*

(i) \* \* \* This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic

snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

\* \* \* \* \*

(t) \* \* \*

(1) \* \* \*

(i) \* \* \* This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

\* \* \* \* \*

(u) \* \* \*

(1) \* \* \*

(i) \* \* \* This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

\* \* \* \* \*

(w) \* \* \*

(1) \* \* \*

(i) \* \* \* This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal

commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

\* \* \* \* \*

(x) \* \* \*

(1) \* \* \*

(i) \* \* \* This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

\* \* \* \* \*

7. In § 622.194, paragraph (a) is revised to read as follows:

§ 622.194 Adjustment of management measures

\* \* \* \* \*

(a) Biomass levels, age-structured analyses, target dates for rebuilding overfished species, MSY (or proxy), OY, ABC, TAC, quotas (including a quota of zero), annual catch limits (ACLs), annual catch targets (ACTs), AMs, maximum fishing mortality threshold (MFMT), minimum stock size threshold (MSST), trip limits, bag limits, size limits, gear restrictions (ranging from regulation to complete prohibition), seasonal or area closures,

fishing year, rebuilding plans, definitions of essential fish habitat, essential fish habitat, essential fish habitat HAPCs or Coral HAPCs, and restrictions on gear and fishing activities applicable in essential fish habitat and essential fish habitat HAPCs.

\* \* \* \* \*

8. In § 622.280, the last sentence of paragraphs (a)(1) and (b)(1) are revised to read as follows:

§ 622.280 Annual catch limits (ACLs) and accountability measures (AMS).

(a) \* \* \*

(1) \* \* \* This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \* This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

\* \* \* \* \*

[FR Doc. 2013-09574 Filed 04/22/2013 at 8:45 am; Publication Date: 04/23/2013]